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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,905	05/01/2002	Rudolf Ehrmaier	951/50010	4430

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EXAMINER

TO, TOAN C

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,905

Applicant(s)

EHRMAIER ET AL.

Examiner

Toan C To

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The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-32 is/are pending in the application.
- 4a) Of the above claim(s) 13-21, 29 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12, 22, 24, 26-28 and 30 is/are rejected.
- 7) ☒ Claim(s) 23, 25 and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 02 February 2004 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 09192001.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Election/Restrictions***

1. In view of reconsideration, claim 32 is directed to the elected species 1 (figure 1), therefore, claim 32 is now considered as an elected claim and treated on the merit.

***Acknowledgement***

2. The substituted specification filed on September 19, 2001 is acknowledged, and entered in record of file.

***Response to Amendment***

3. The amendment filed February 2, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

OK. "gear selection device having a defined rest position, said gear selection device being directed out of the rest position in order to select a driving position desired by the driver and then being automatically returns"

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 12, 22, 24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Welsch et al (U.S. 6,029,511).

Welsch et al discloses a device for increasing security of the vehicle with the following: an automatic transmission (a friction clutch 8 is part of the automatic transmission, since Welsch et al disclose the clutch 8 for vehicle without clutch pedal, see column 1); an electric transmission control (5) operatively coupled with the automatic transmission; a detection device includes at least one of rotational wheel speed sensor and a yaw rate sensor ( $S_{1-4}$ , 6) that detects a parameter of one of an accident and swerving even of the vehicle (see column 3, lines 40-45) and generating a signal corresponding to the parameter; an analyzing device (a device uses for operating condition from S10-S22) is integrated into the control 5 for evaluating whether the signal reaches a specific value or exceeds a specific threshold (S22) corresponding to presence of the accident or swerving even, the analyzing device causing the electric transmission control (5) to interrupt a positive engagement of the automatic transmission (S26) when the specific value is reaches or the specific threshold is exceeded.

6. Claims 28, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Welsch et al (U.S. 6,029,511).

Welsch et al discloses a method for increasing security of vehicle having an automatic transmission (a friction clutch 8 is part of the automatic transmission, since Welsch et al disclose the clutch 8 for vehicle without clutch pedal, see column 1) operatively coupled with an electric transmission control (5), wherein the method

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comprising the following steps: detecting one of an accident and swerving event of the vehicle (see column 3, line 42) operatively coupled with the automatic transmission is carried out by analyzing signals from at least one of rotational wheel speed sensors (S<sub>1-4</sub>); generating signal value associated with the swerving event (S10-S18), evaluating the signal value to determine whether it reaches a specific value or exceeds a specific threshold (S22), interrupting the positive engagement of the automatic transmission when the specific value is reached or the specific threshold is exceeded.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welsch et al in view of Zimmermann et al (U.S. 6,695,747).

Welsch discloses every element of the invention as discussed above, but does not directly disclose a gear selection device.

Zimmermann teaches the device for increasing security includes a gear selection device (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Welsch's device by having a gear selection device being incorporated with the automatic transmission as taught by Zimmermann in order to

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prevent unintentional shifting of the gears caused by out of control of driver upon accident.

***Allowable Subject Matter***

9. Claims 23, 25 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

10. Applicant's arguments with respect to claims 12 and 28 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C To whose telephone number is (703) 306-5951. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

To, T

April 4, 2004

  
ERIC CULBRETH  
PRIMARY EXAMINER